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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FIRST OPTION MORTGAGE, LLC,

Plaintiff,

vs.

NIGEL TABBERT; PROSPECT
MORTGAGE, LLC

Defendants.

CASE NO.:

NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA:

Pursuant to 28 U.S.C. §§ 1441 and 1446, defendant Prospect Mortgage, LLC (“Prospect Mortgage”) hereby removes this action to the United States District Court, and in support thereof, states as follows:

1. The grounds for this removal is diversity of citizenship pursuant to 28 U.S.C. § 1332.

2. Complete diversity exists as follows:

a. Upon information and belief, plaintiff First Option Mortgage, LLC is a Georgia limited liability company; its members, Kurt A. Nikolai and Timothy Burford, are domiciled and reside in Georgia, thus First Option is deemed a citizen of Georgia. A copy of First Option’s filing with the Nevada Secretary of State is attached hereto as Exhibit A.

b. Prospect Mortgage is a Delaware limited liability company; its members are also citizens of Delaware; thus Prospect Mortgage is deemed a citizen of Delaware.

c. Defendant Nigel Tabbert ("Tabbert") is a resident of and domiciled in the State of Nevada, thus is deemed a citizen of Nevada. Complaint, ¶ 9.

Thus, complete diversity exists between Plaintiff and Defendants.

3. With respect to the amount in controversy requirement, the Complaint alleges Tabbert misappropriated customer lists and other proprietary information in violation of a confidentiality and non-solicitation agreement between Tabbert and First Option. *See e.g.* Complaint, ¶¶ 42-67. The Complaint further alleges wrongdoing by Prospect Mortgage in connection with the provision of residential loans by Tabbert to certain First Option customers. *Id.* at ¶¶ 112-119. In furtherance of its alleged damages, First Option has asserted nine claims for relief: (1) breach of contract: breach of confidentiality covenants (Tabbert); (2) breach of contract: breach of non-solicitation of customers covenants (Tabbert); (3) violation of Nevada's Trade Secrets Act (all defendants); (4) breach of the implied covenant of good faith and fair dealing (Tabbert); (5) intentional interference with contractual relations (Prospect Mortgage); (6) intentional interference with prospective economic advantage (all defendants); (7) violation of NRS 205.477 (all defendants); (8) conversion (all defendants); (9) civil conspiracy (all defendants). Additionally, First Option seeks temporary and permanent injunctive relief against Prospect Mortgage and Tabbert. In connection with First Option's civil conspiracy claim, it has asserted punitive damages against Tabbert and Prospect Mortgage. "It is well established that the amount in controversy is measured by the value of the object of the litigation." *Hunt v. Wash. State Apple Advertising Comm'n*, 432 U.S. 333, 347 (1977). Based on the foregoing, the amount in controversy exceeds the \$75,000.00 jurisdictional requirement.

4. Accordingly, this Court has jurisdiction over these claims pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds \$75,000.00. This Court's jurisdiction is also proper pursuant to 28 U.S.C. § 1441(a).

5. This removal notice is timely. Prospect Mortgage was served with copies of the Summons and Complaint on April 10, 2012. This Notice of Removal, being filed within 30 days of that date, is timely filed pursuant to 28 U.S.C. § 1446(b).

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDonald Carano Wilson LLP, and that on this 12th day of April, 2012 I caused a true and correct copy of the foregoing **NOTICE OF REMOVAL** to be served via ECF upon the following:

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